

**LODI CITY COUNCIL  
REGULAR CITY COUNCIL MEETING  
CARNEGIE FORUM, 305 WEST PINE STREET  
WEDNESDAY, DECEMBER 21, 2005**

C-1 CALL TO ORDER / ROLL CALL

The City Council Closed Session meeting of December 21, 2005, was called to order by Mayor Hitchcock at 6:32 p.m.

Present: Council Members – Beckman, Hansen, Johnson, Mounce, and Mayor Hitchcock

Absent: Council Members – None

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Blackston

C-2 ANNOUNCEMENT OF CLOSED SESSION

a) Actual litigation: Government Code §54956.9(a); one case; People of the State of California; and the City of Lodi, California v. M & P Investments, et al.; United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM

C-3 ADJOURN TO CLOSED SESSION

At 6:32 p.m., Mayor Hitchcock adjourned the meeting to a Closed Session to discuss the above matter.

The Closed Session adjourned at 6:50 p.m.

C-4 RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 7:00 p.m., Mayor Hitchcock reconvened the City Council meeting, and City Attorney Schwabauer disclosed that he received direction from Council, which he believed would allow the City to resolve the final party in the southern plume; however, negotiation of the remainder of the agreement still needs to take place.

A. CALL TO ORDER / ROLL CALL

The Regular City Council meeting of December 21, 2005, was called to order by Mayor Hitchcock at 7:00 p.m.

Present: Council Members – Beckman, Hansen, Johnson, Mounce, and Mayor Hitchcock

Absent: Council Members – None

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Blackston

B. INVOCATION

The invocation was given by Pastor Dale Edwards, Century Assembly.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Hitchcock.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

D-1 Awards – None

D-2 Proclamations – None

D-3 Presentations – None

---

E. CONSENT CALENDAR

In accordance with the report and recommendation of the City Manager, Council, on motion of Mayor Pro Tempore Johnson, Beckman second, unanimously approved the following items hereinafter set forth **except those otherwise noted**:

E-1 Claims were approved in the amount of \$7,225,789.11.

- E-2 The minutes of November 8, 2005 (Shirtsleeve Session), November 15, 2005 (Shirtsleeve Session), November 15, 2005 (Special Meeting), November 29, 2005 (Shirtsleeve Session), December 6, 2005 (Shirtsleeve Session), and December 6, 2005 (Special Meeting) were approved as written.
- E-3 Adopted Resolution No. 2005-256 approving specifications for total station surveying equipment with global positioning satellite capability and authorizing the City Manager to approve the purchase from Haselbach Surveying Instruments as the sole supplier in an amount not to exceed \$64,000.
- E-4 Adopted Resolution No. 2005-257 authorizing the City Manager to negotiate and purchase five Type 2 Medium Bus (Dial-A-Ride) transit vehicles off of the state contract, authorizing conversion of the five vehicles to compressed natural gas, and appropriating funds in the amount of \$425,000.
- E-5 Adopted Resolution No. 2005-258 accepting the improvements at 2650 West Lodi Avenue.
- E-6 Adopted Resolution No. 2005-259 approving the Disadvantaged Business Enterprise Program and Established Overall Annual Disadvantaged Business Enterprise goal of 6% for Federal Transit Administration-assisted projects for federal fiscal year 2005-06.
- E-7 Adopted Resolution No. 2005-260 authorizing the City Manager to extend the current contract with SBC, of Stockton, under the terms of the State of California CALNET contract for three years for telephone services and hardware ending in November 2008 in the amount of \$231,333 per year.
- E-8 "Adopt resolution ratifying the Purchasing Policies and Procedures" was ***removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar.***
- E-9 Received notice of intent to issue annual payment in the amount of \$27,917.96 to the Mokelumne Rural Fire District as negotiated in the annexation agreement approved on September 6, 2000.
- E-10 Received for informational purposes annual Housing Element report for submittal to the Department of Housing and Community Development.

---

ACTION ON ITEM REMOVED FROM THE CONSENT CALENDAR

- E-8 "Adopt resolution ratifying the Purchasing Policies and Procedures"

Council Member Mounce stated that she felt the threshold amount of \$20,000 for purchases (before Council approval is required) was too high and she could not support this item for that reason.

Mayor Pro Tempore Johnson recalled during previous discussions on this matter that there was to be periodic reporting to Council on purchases.

MOTION / VOTE:

The City Council, on motion of Mayor Pro Tempore Johnson, Beckman second, adopted Resolution No. 2005-261 ratifying the Purchasing Policies and Procedures with the addition of the quarterly reporting requirement, as outlined in Lodi Municipal Code Section 2.12.060 (T), "For contracts of not less than \$5,000 nor greater than \$20,000, the City Manager shall quarterly prepare for the City Council a report, which includes a list of the contracts into

which the City has entered during the previous three months.” The motion carried by the following vote:

Ayes: Council Members – Beckman, Hansen, Johnson, and Mayor Hitchcock

Noes: Council Members – Mounce

Absent: Council Members – None

F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

None.

G. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

- Council Member Beckman recalled that at the December 20 Shirtsleeve Session it was suggested that joint meetings of the Planning Commission and City Council be held to consider matters related to the update of the City's General Plan. He recalled that the City Clerk had forwarded information to Council pointing out that three Council Members constitute a quorum and can take action at meetings. In addition, all meetings of the Council are to be attended by Council appointees and minutes must be prepared. He expressed concern with the suggestion on December 20 that three members of the Council attend the Planning Commission meetings, as action could then be taken by those Council Members. He asked that this matter be placed on a future agenda.
- Mayor Hitchcock thanked Nicolas and Noah Carniglia for their comments sent to her in a Christmas card.

H. COMMENTS BY THE CITY MANAGER ON NON-AGENDA ITEMS

- City Manager King introduced Ruby Paiste who will serve in the capacity of Interim Finance Director, as former Finance Director, Jim Krueger, has now assumed the position of Deputy City Manager/Internal Services Director. Mr. King mentioned that a newspaper article was recently published in *The Record* on the subject of who authorizes flags being lowered to half staff. He clarified that in Lodi the City Manager directs staff as to when the flag is to be flown at half staff; however, he does not exercise independent discretion. Directives are received from the President, Governor, and Mayor.

I. PUBLIC HEARINGS

None.

J. COMMUNICATIONS

J-1 Claims filed against the City of Lodi – None

J-2 Appointments – None

J-3 Miscellaneous

- a) City Clerk Blackston presented the cumulative Monthly Protocol Account Report through November 30, 2005.

K. REGULAR CALENDAR

K-1 “Approve Downtown Lodi Business Partnership 2005-06 Annual Report, adopt Resolution of Intention to levy annual assessment, and set public hearing for January 4, 2006”

City Manager King explained that at tonight's meeting Council can either approve the Downtown Lodi Business Partnership's (DLBP) Annual Report as filed, or modify it. He noted that the report includes a Special Events Policy for Council's consideration.

Mary Wallace, President of the DLBP, stated that downtown revitalization is an investment in the future health of the entire community. Investors, prospects, and potential residents often look at a city's downtown area as an indication of the quality of life offered by the community. Over the past seven years, Lodi's downtown has become a source of great civic pride and accomplishment. The DLBP has an Executive Director with the responsibilities of: 1) serving as an advocate for the downtown, 2) developing and conducting ongoing public awareness and educational programs, 3) providing day-to-day oversight of projects, 4) acting as a point person for all downtown related issues, and 5) fostering and maintaining a cooperative working relationship with existing business owners, prospective developers, and government agencies. During the past year, the DLBP has formed an economic development committee to coordinate with the City's program. The DLBP has also developed an event policy, contract, and fee schedule. The DLBP has formed a relationship with the Lodi Conference and Visitors Bureau, the Chamber of Commerce, the Wine Grape Commission, Hutchins Street Square, and the City of Lodi. A subgroup entitled "Destination Lodi" has a marketing focus on the wine appellation area and Lodi's downtown. Ms. Wallace reviewed events that have occurred during the past year. She thanked Kevin Bell of the Finance Department for his efforts and noted that there has been 100% compliance in the collection of assessments. She felt it was critical that the City continue to fund the DLBP to ensure its future success. Ms. Wallace introduced Chuck Easterling, newly elected DLBP Board President for 2006, and Jaime Watt newly hired DLBP Executive Director.

Council Member Hansen commented that the Annual Report has been received late and hoped it would be filed in a more timely manner in the future. He noted that last year's budget had a \$16,000 surplus and the proposed budget, ending in six months, has a zero balance.

Nancy Byer-Hauan, DLBP Treasurer, explained that surpluses are reinvested back into the community and downtown area.

Council Member Beckman recalled that during his three years on the Council, the DLBP has been having significant and continual problems. He asked under what authority and direction the DLBP developed the Special Events Policy. He reported that the most common complaint he has heard from DLBP members is that the assessment fee schedule is not equitable. Each year, the DLBP Presidents have promised to resolve the matter, yet it has never been accomplished. Mr. Beckman stated that he would not vote in favor of the continued levy of assessments until the issue of inequities is addressed.

Ms. Wallace replied that the Special Events Policy was created to standardize processes and promote the safety, health, and well being of the property downtown. In addition, the Policy was developed in an effort to influence the type of events that are held in the downtown area. There had been criticism in the past that some events competed with downtown businesses (e.g. sold the same merchandise). The Policy also clarifies responsibilities of the DLBP and the applicant. In response to Council Member Beckman, Ms. Wallace stated that the Policy was optional, and that it could not be enforced without the City's authority to do so, nor could fees be changed without the City's approval. In reference to the inequities of the assessment fee schedule, Ms. Wallace agreed that it should be reviewed.

In answer to Mayor Hitchcock, City Attorney Schwabauer reported that Council's responsibility is to review and approve the DLBP's budget, including its sources of income and proposed expenditures. It is Council's oversight of the process that allows the DLBP to issue what, in essence, is a tax. He suggested that the DLBP should also be asked to report back annually on how the assessment money is spent. There is an agreement between the City and DLBP that provides them some measure of authority over events that occur in the downtown. It does not, however, give them the authority to charge permit fees

as is proposed in the Special Events Policy. The Policy should be considered and acted on by Council tonight.

Mayor Pro Tempore Johnson recalled that it was expressed previously by the DLBP, Chamber of Commerce, and Lodi Conference & Visitors Bureau that these organizations would wean themselves off City funding and work toward becoming self supporting.

Ms. Wallace replied that she felt the DLBP could become self sufficient in the future.

City Manager King commented that the City's funding to the DLBP has remained unchanged over the past two years.

Council Member Mounce agreed that the DLBP should become self supporting. She noted that a balance sheet was not attached to the financial statement and asked that it be submitted. She inquired as to whether the DLBP had an outside auditor, to which Ms. Wallace answered in the affirmative. She pointed out that there was a large credit under "payroll other," to which Ms. Byer-Hauan stated she would review the matter and report back.

Council Member Hansen stated that next year he would not support the continued levying of assessments unless the inequities in fees and boundaries were resolved.

Mr. King stated that staff has questioned whether it was Council's intention that the DLBP would stand as gatekeeper over the City's right of way and use the control of a public asset to generate revenue for their activities.

Mayor Hitchcock recalled that each year a new DLBP President stands before Council and promises to review inequities in assessments and boundaries. It appears that the matter never gets addressed due to the lack of continuity on the Board. She was opposed to approving the Special Events Policy before the longer standing issue of inequities was resolved.

Ms. Wallace acknowledged that a better job of orienting new DLBP Board members should be accomplished. She reviewed the recruitment process undertaken for the selection of the Executive Director position. She commented that independent business owners are used to autonomy and have strong wills, which may account for occasional discord on the DLBP Board.

In reply to Council Member Johnson, Mr. Schwabauer confirmed that a vote of businesses in the Downtown Lodi Business Improvement Area would be required before a change in the assessment or boundaries could be made.

MOTION:

Council Member Mounce made a motion, Johnson second, to approve the Downtown Lodi Business Partnership 2005-06 Annual Report (including the Special Events Policy), adopt Resolution No. 2005-162 of Intention to levy annual assessment, and set public hearing for January 4, 2006.

DISCUSSION:

Council Member Beckman suggested that the concept of the Business Improvement District be expanded to incorporate the Kettleman Lane District, Cherokee Lane District, Lodi Avenue District, etc. into a larger entity that could divide the workload and revenue generation. He believed this would be a good discussion for Council to have in the future. He felt that the Special Events Policy should have been submitted and considered separately from the DLBP's Annual Report.

PUBLIC COMMENTS:

- Pat Patrick, President of the Chamber of Commerce, stated that the Street Fair is grandfathered in and not subject to the Special Events Policy permit fees. He commended Mary Wallace for her work on the DLBP.
- Chuck Easterling believed it would be difficult to conduct the process and obtain the necessary votes to change the assessment amounts and boundaries. Mr. Easterling stated that his priority was to bring the wine industry and other businesses to the downtown area. He commented that seven years ago there was a 70% occupancy rate downtown and it is now over 95%. He felt that more needs to be done to revitalize Sacramento Street.

VOTE:

The above motion carried by the following vote:

Ayes: Council Members – Hansen, Johnson, and Mounce  
Noes: Council Members – Beckman and Mayor Hitchcock  
Absent: Council Members – None

- K-2 “Introduce ordinance adding Chapter 15.65 to the Lodi Municipal Code establishing the San Joaquin County Regional Transportation Impact Fee Program and set public hearing for January 4, 2006, to consider adoption of the fee”

*NOTE: Due to a potential conflict of interest related to his employment with the Building Industry Association of the Delta, Council Member Beckman abstained from discussion and voting on this matter and vacated his seat at dais.*

Andrew Chesley, Executive Director of the San Joaquin Council of Governments (SJCOG), reported that the cities of Escalon, Tracy, Manteca, and Lathrop have adopted their Regional Transportation Impact Fee (RTIF) programs. Stockton, Ripon, and the County are scheduled to consider their RTIF programs in January.

Public Works Director Prima explained that the RTIF is a fee that would be imposed on new development and would go toward regional transportation improvements. The genesis of the fee comes from Measure K, which included a requirement that all agencies have a transportation impact fee and are encouraged to develop a regional fee. Lodi's proposed RTIF is \$2,500 for a single-family dwelling unit, \$1,500 for a multi-family unit, \$1 per square foot for retail buildings, \$1.25 per square foot for office space, and 75 cents per square foot for industrial buildings. Mr. Prima stated that the RTIF would be adopted by resolution following adoption of the ordinance. Of the funds generated from the RTIF, Lodi will retain 75%, and the remaining 25% would be split between transit, the County, and SJCOG.

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Mounce second, introduced Ordinance No. 1767 adding Chapter 15.65 to the Lodi Municipal Code establishing the San Joaquin County Regional Transportation Impact Fee Program and set public hearing for January 4, 2006, to consider adoption of the fee. The motion carried by the following vote:

Ayes: Council Members – Hansen, Johnson, Mounce, and Mayor Hitchcock  
Noes: Council Members – None  
Absent: Council Members – None  
Abstain: Council Members – Beckman

RECESS

At 8:42 p.m., Mayor Hitchcock called for a recess, and the City Council meeting reconvened at 8:50 p.m.

K. REGULAR CALENDAR (Continued)

- K-3 "Adopt resolution eliminating early lock-in date for Development Impact Fees established in Resolution 2004-238 and establishing that Development Impact Fees established by Resolution 2004-238 will not be locked in until the time required by California law"

City Attorney Schwabauer recalled that, at the December 13 Shirtsleeve Session, the topic of development agreements was discussed. He stated that under the City's existing ordinance developers are allowed to lock in impact fees earlier than what is required by California law. This exposes the impact fee programs to increases in costs that accrue during the period between the time the fees are paid and the time the impact fee program improvements are constructed. Those increases are then paid for through City funds, instead of the development that spurred the need for the impact fee program. Staff recommends that Council amend Resolution 2004-238 to provide that the fee increases established in that resolution are not locked in until the latest date allowed by California law.

City Manager King stated that this matter came to staff's attention from a developer applicant who sought to pay fees prior to the end of this year in order to lock them in. That developer may be several years away from pulling a building permit.

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Mounce second, unanimously adopted Resolution No. 2005-263 eliminating early lock-in date for Development Impact Fees established in Resolution 2004-238 and establishing that Development Impact Fees established by Resolution 2004-238 will not be locked in until the time required by California law.

- K-4 "Adopt resolution approving SBC Encroachment Permit Condition (Video Programming Limitation) for new facilities installations"

City Manager King reported that SBC is seeking to conduct work on its infrastructure system, which would allow it to deliver cable television type of programming to customers via phone lines. The Federal Communications Act allows cities to impose franchise fees on cable companies. Staff is concerned that, if phone companies or other entities like SBC were to begin providing cable services, they would operate outside of a franchise agreement. The proposed resolution puts language in the encroachment permit that SBC agrees on behalf of itself and its affiliates that it will not provide video programming cable service without obtaining a franchise agreement from the City.

In answer to questions posed by Council, Mr. King stated that he did not believe this would inhibit the City's ability to provide cable services if it chose to. Wireless providers are similar to standard television service, which is not covered by the Federal Communications Commission. In accordance with Federal law, Lodi's cable franchise is non-exclusive.

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Beckman second, adopted Resolution No. 2005-264 approving SBC Encroachment Permit Condition (Video Programming Limitation) for new facilities installations. The motion carried by the following vote:

Ayes: Council Members – Beckman, Hansen, Mounce, and Mayor Hitchcock

Noes: Council Members – Johnson

Absent: Council Members – None

- K-5 "Adopt resolution authorizing the City Manager or his designee to execute a Project Development Agreement to fund due diligence assessments associated with the Resource 500 generation project (not to exceed \$61,875)"

Interim Electric Utility Director Dockham reported that Lodi has a need for 30 average megawatts of capacity starting in 2007 and growing to 38 average megawatts of capacity in 2013. Participation in the Resource 500 generation project will address the City's need. The project will be available by June 2006. He recommended diversification by participating in this project as well as the White Slough project. The funding requested at this time would provide for continued due diligence negotiations, engineering assessment of the viability of the plant, and development of the project agreement. The total cost for all the participants in this project at this phase is \$1.5 million. If the negotiating team is able to obtain an agreement with a counter party for sale of the plant, then there would be another need for a higher level of investment to keep the project moving forward. The goal is to conclude negotiations in four months and make the transaction such that energy can begin being delivered to project participants in late June 2006. The White Slough project has not yet been licensed by the California Energy Commission. The earliest the White Slough plant could begin delivering energy would be in 2009. Mr. Dockham stated that he reserved a 25 megawatt allocation in the Resource 500 plant for Lodi; although, he believed the City should participate in the project at a level of 15 megawatts for a cost of \$56,250. To participate at a 25 megawatt level, there would be an additional cost of \$37,000.

In answer to questions posed by Council, Mr. Dockham acknowledged that the City would lose its initial investment if the project did not come to fruition. He confirmed that there would be a cost savings if a transmission line were built from White Slough.

Boris Prokop, consultant for Electric Utility, commented that the most significant, and expensive, decision will be in four months as the project moves forward.

PUBLIC COMMENTS:

- Pat Patrick questioned whether investing in the Resource 500 project would make a negative impression to potential investors of the White Slough project. He asked what the possibility was of building a transmission line from White Slough.

Mr. Dockham replied that it is clearly understood that Lodi is extremely interested in the White Slough project. He believed that controversy surrounding the transmission line could be overcome.

MOTION / VOTE:

The City Council, on motion of Council Member Beckman, Mounce second, unanimously adopted Resolution No. 2005-265 authorizing the City Manager or his designee to execute the Resource 500 Development Agreement with the Central Valley Project Corporation, or its assignee, at 25 megawatt level in substantially the form on file with the City Clerk with such changes, insertions, and omissions as may be approved by the official executing the agreement and the City Attorney in an amount not to exceed \$102,575 and authorizing the City Manager or his designee to approve any changes in the Resource 500 Project Development budget up to 10% without further consideration by the City Council.

- K-6 "Provide preliminary and non-binding policy direction regarding electric rate design/structure for future adjustment to base rates by transferring rates from Market Cost Adjustment charges to Base Rate charges, i.e. 'Truing up the Electric Rates'"

With the aid of an overhead presentation (filed), Interim Electric Utility Director Dockham explained that the Market Cost Adjustment (MCA) is temporary and the Utility's cost structure is permanent. The Utility needs to replace the temporary structure with a long-term permanent solution. The MCA represents one-third of the total income. The income



should be derived from base rates. The electric rate "true up" will eliminate the MCA component and transfer it to a base rate component. The goal is to collect sufficient revenues from each of the classes to support overall Utility service operations, which will be done according to a cost of service study.

Mayor Hitchcock asked if any other electric utilities offer rates to industrial customers that are less than the cost, to which Mr. Dockham stated the information would be researched and provided at a later time.

Mr. Dockham reported that Pacific Gas & Electric (PG&E) uses a five-tiered rate structure. At certain levels of consumption, increasingly higher rates are charged. Lodi has a two-tier rate structure. There are seasonal rates within the tiers. Mr. Dockham stated that if Lodi wants to compare its rates to PG&E, it should go to a five-tier structure.

In reply to Council Member Mounce, Mr. Dockham confirmed that with the two-tier rate structure, a higher electric rate is paid at lower levels of consumption.

City Manager King commented that rating agencies compare Lodi Electric Utility against PG&E.

Mayor Hitchcock and Council Members Hansen and Mounce expressed a preference for a five-tier rate structure.

Mr. Dockham reviewed the following residential discount programs:

- Fixed Income is eligible to qualifying seniors who have an annual income of \$45,000 or less. It provides a 5% discount, there are 90 accounts, and the annual cost of the program is \$5,000.
- Medical Rider Program is eligible to those who are dependant on life support devices or have a medical condition that requires extra heating and cooling needs. Eligible customers receive an additional 500 kilowatt hours at the lowest baseline rate. It provides an 8% discount, there are 354 accounts, and the annual cost of the program is \$134,000.
- SHARE (Single Household Alternate Rate for Energy) Program is eligible to low-income customers and is based on the number of residents in the home. It provides a 30% discount from the standard rate, there are 1,700 accounts, and the annual cost of the program is \$400,000.

Mr. Dockham reported that there are 159 accounts receiving combined discounts, which provide a 36% reduction from standard rates and costs \$50,000 annually.

Council Member Mounce recommended that more effort be made to promote the Fixed Income Program.

Council Members Hansen and Mounce expressed support for retaining the existing electric rate discount programs as currently designed.

Council Member Beckman felt that the discounts were too high.

MOTION / VOTE:

No Council action was taken on this matter.

- K-7 "Adopt resolution awarding contract to Rosendin Electric Inc., of San Jose, CA, for the reconstruction of Killelea Substation and the addition of 60kV power circuit breakers at Industrial Substation, accepting bid withdrawal of Diede Construction, and transferring funds (\$4,231,874)"

Mel Grandi, Electric Services Manager, reported that the Killelea Substation was constructed in 1961 as a 12kV receiving and distribution station. In 1969, it was upgraded to a 60kV receiving station, with distribution continuing at 12kV. In 1994, it was reconfigured to a standard station. The equipment life expectancy is 35 years. The proposed upgrade would fully modify the station. The equipment will be replaced and the station will be expanded for adequate maintenance needs.

Mr. Grandi stated that the Industrial Substation was built in 1990. The proposal is to add two more breakers to increase the capacity necessary for the growth that has occurred.

In reply to Council Member Hansen, Mr. Grandi explained that the proposed substation improvements will make the transformers more efficient and there will be increased efficiency in restoring power after an outage. It will increase overall reliability of the system. The project is anticipated to be completed by May 2007.

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Beckman second, unanimously adopted Resolution No. 2005-266 awarding the contract to Rosendin Electric Inc., of San Jose, CA, for the reconstruction of Killelea Substation and the addition of 60kV power circuit breakers at Industrial Substation, accepting bid withdrawal of Diede Construction, and transferring funds in the amount of \$4,231,874.

- K-8 "Ratify employment agreement entered into between City Manager, Blair King, and Deputy City Manager/Internal Services Director, James Krueger, and receive for information only a report on the reorganization of the Finance Department and City Manager's Office"

Employment Agreement

Council Member Mounce commended James Krueger and expressed support for his selection to fill the position of Deputy City Manager/Internal Services Director; however, she was opposed to the severance package in the agreement and stated she would vote against the matter for that reason.

City Manager King explained that the Lodi Municipal Code charges the city manager to make selections of subordinate employees; however, the severance pay provision in the proposed agreement is above his authority, therefore he has brought this matter before Council. Mr. King stated that he intends to provide standard two-year employment agreements to all department heads that are hired henceforth. In Mr. Krueger's agreement, the amount of compensation (\$119,556) is at the high end of the range (\$81,985 to \$99,652). It includes a provision for a six-month notice before the expiration of the contract if it will not be renewed. The severance package includes a cash payment equal to six months' aggregate salary and the City's cost of six months' health insurance benefits if the employee is terminated without cause. The agreement also stipulates that a 5% salary increase may be granted by the City Manager after twelve months of employment. Mr. King noted that if the additional 5% increase is granted, he would bring the matter back to Council.

In reply to Mayor Hitchcock, City Attorney Schwabauer stated that the reason the employment agreements are set up for two-year terms is to allow the option of terminating an employee without having any severance obligation. If it is decided not to renew the agreement there is no legal basis for the employee to sue and claim they were terminated inappropriately.

Mayor Hitchcock expressed concern that two-year employment agreements would not attract the best candidates to apply for positions in Lodi.

Mr. King countered that employees without a contract have no assurance of any term of service. He explained that for typical employees the two-year agreements would be rolled over for another two years. It also provides an opportunity for renegotiation. Mr. King did acknowledge that if there were a change in management, a new city manager could choose to allow all the contracts to expire.

Council Members Hansen and Beckman supported the concept of two-year employment agreements and felt that it offered more stability.

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Beckman second, ratified the employment agreement entered into between City Manager, Blair King, and Deputy City Manager/Internal Services Director, James Krueger. The motion carried by the following vote:

Ayes: Council Members – Beckman, Hansen, and Johnson

Noes: Council Members – Mounce and Mayor Hitchcock

Absent: Council Members – None

Reorganization of the Finance Department and City Manager's Office

City Manager King explained that line functions are typically defined as those departments that deliver services to the public such as Police, Fire, and Public Works. Support or Internal Service functions are services that support line functions in performing their work, such as Human Resources, Information Systems, and many of the Finance Department functions. The reorganization will consolidate the support services under one direction in an effort to improve communications and efficiencies. Mr. King stated that he would like to decrease the number of department heads in the City. The Deputy City Manager will have direct report functions to include Human Resources, Information Systems, and the Finance Department. The Finance Director position will be removed and the Finance Department will have two divisions: 1) budget, revenue, and purchasing and 2) accounting and customer service functions. There will be an overall reduction of one position in the Finance Department.

VOTE TO CONTINUE WITH THE REMAINDER OF THE MEETING

The City Council, on motion of Mayor Pro Tempore Johnson, Mounce second, unanimously voted to continue with the remainder of the meeting following the 11:00 p.m. hour, with the exception of agenda item K-10.

K. REGULAR CALENDAR (Continued)

K-9 "Introduce ordinance amending Lodi Municipal Code relating to the establishment of wastewater development impact fees by amending Lodi Municipal Code Title 13 – Public Services – Chapter 13.12, "Sewer Service," by repealing and reenacting Sections 13.12.020 (5) and (45), 13.12.180 (A), and 13.12.190; and further amending Title 15 – Buildings and Construction – Chapter 15.64, "Development Impact Mitigation Fees," by amending Section 15.64.10 – adding new paragraph "F" and relettering paragraphs (G) and (H) – repealing and reenacting Sections 15.64.030 (A) and 15.64.040, amending Section 15.64.060 – adding paragraph "C" – and repealing and reenacting Section 15.64.070 (B)"

Public Works Director Prima explained that the proposed ordinance combines the sewer impact fee and sewer capacity fee. The fees will be collected at the time of the building permit. The only exceptions would be for the few cases in which improvements that trigger fee payment do not require a building permit, or as may be otherwise provided in a development agreement.

MOTION / VOTE:

The City Council, on motion of Council Member Mounce, Hansen second, unanimously introduced Ordinance No. 1768 amending Lodi Municipal Code relating to the establishment of wastewater development impact fees by amending Lodi Municipal Code Title 13 – Public Services – Chapter 13.12, "Sewer Service," by repealing and reenacting Sections 13.12.020 (5) and (45), 13.12.180 (A), and 13.12.190; and further amending Title 15 – Buildings and Construction – Chapter 15.64, "Development Impact Mitigation Fees," by amending Section 15.64.10 – adding new paragraph "F" and relettering paragraphs (G) and (H) – repealing and reenacting Sections 15.64.030 (A) and 15.64.040, amending Section 15.64.060 – adding paragraph "C" – and repealing and reenacting Section 15.64.070 (B).

- K-10 "Discuss and select project nominations for San Joaquin Council of Governments' One Voice trip" was ***pulled from the agenda pursuant to the above vote.***
- K-11 "Approve expenses incurred by outside counsel/consultants relative to the Environmental Abatement Program litigation and various other cases being handled by outside counsel (\$111,268.43) and approve Special Allocation covering general litigation matter expenses (\$10,066.11)"

City Attorney Schwabauer reviewed invoices as outlined in the staff report and delineated below.

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Mounce second, unanimously approved expenses incurred by outside counsel/consultants relative to the Environmental Abatement Program litigation and various other cases being handled by outside counsel in the amount of \$111,268.43 and approved Special Allocation covering general litigation matter expenses in the amount of \$10,066.11, as detailed below:

**Folger Levin & Kahn - Invoices Distribution**

Matter No.	Invoice No.	Date	Description	Total Amount
8001	91583	10/31/05	General Advice/Environmental Matters	\$ 190.36
8002	91556	10/31/05	People v M&P Investments	\$18,631.79
				(\$805.00)
8003	91559	10/31/05	Hartford Insurance Coverage Litigation	\$26,245.25
				(\$470.00)
8005	91560	10/31/05	Unigard Insurance	\$ 1,008.20
8006	91561	10/31/05	Fireman's Fund/Unigard Appeal	\$ 557.83
8008	91562	10/31/05	Envision Law Group	\$54,268.88
				\$99,627.31

**Kronick Moskovitz Tiedemann & Girard - Invoices Distribution**

Matter No.	Invoice No.	Date	Description	Total Amount	Distribution	
					100351.7323	183453.7
11233.001	222267	10/25/05	General advice	405.00	405.00	
11233.019	222267	10/25/05	Claims by Environ. Cons.	1,096.00		1,096.00
				( 54.00)		-54.00
11233.026	222267	10/25/05	Lodi First v. City of Lodi	1,008.11	1,008.11	
11233.027	222267	10/25/05	Citizens for Open Govt.v.Col	449.35	449.35	
				2,904.46	1,862.46	1,042.00

**Kronick Moskowitz Tiedemann & Girard - Invoices Distribution**

Matter	Invoice	Date	Description	Total	Distribution	
					100351.7323	
	183453.7323					
No.	No.					
11233.001	222698	11/25/05	General advice	124.94	124.94	
11233.019	222698	11/25/05	Claims by	533.01		533.01
			Environmental Cons.			
11233.026	222698	11/25/05	Lodi First v.	7,667.60	7,667.60	
			City of Lodi			
11233.027	222698	11/25/05	Citizens for Open	411.11	411.11	
			Govt.v.Col			
				8,736.66	8,203.65	533.01

L. ORDINANCES

None.

M. ADJOURNMENT TO AGENCY MEETINGS

M-1 "Meeting of the Lodi Public Improvement Corporation"

At 11:22 p.m., Mayor Hitchcock adjourned the City Council meeting to conduct the meeting of the Lodi Public Improvement Corporation. Following the call to order, Secretary Blackston recorded roll.

MOTION / VOTE:

The Corporation, on motion of Director Beckman, Mounce second, unanimously adopted Resolution No. LPIC2005-01 electing the new officers to the Lodi Public Improvement Corporation for calendar year 2006.

There being no further business, the meeting was adjourned at 11:22 p.m.

M-2 "Meeting of the Industrial Development Authority"

At 11:23 p.m., Chairperson Hitchcock called to order the meeting of the Industrial Development Authority, and Secretary Blackston recorded roll.

MOTION / VOTE:

The Authority, on motion of Member Johnson, Mounce second, unanimously adopted Resolution No. IDA-27 electing the new officers to the Industrial Development Authority for calendar year 2006.

There being no further business, the meeting was adjourned at 11:23 p.m.

M-3 "Meeting of the Lodi Financing Corporation"

At 11:24 p.m., President Hitchcock called to order the meeting of the Lodi Financing Corporation, and Secretary Blackston recorded roll.

MOTION / VOTE:

The Corporation, on motion of Director Beckman, Mounce second, unanimously adopted Resolution No. LFC-14 electing the new officers to the Lodi Financing Corporation for calendar year 2006.

There being no further business, the meeting was adjourned at 11:24 p.m.

M-4 "Meeting of the City of Lodi Redevelopment Agency"

At 11:25 p.m., Chairperson Hitchcock called to order the meeting of the City of Lodi Redevelopment Agency, and Secretary Blackston recorded roll.

MOTION / VOTE:

The Agency, on motion of Member Beckman, Hansen second, unanimously adopted Resolution No. RDA2005-01 electing the new officers to the City of Lodi Redevelopment Agency for calendar year 2006 and waiving compensation for the December 21, 2005, meeting.

There being no further business, the meeting was adjourned at 11:25 p.m.

Mayor Hitchcock reconvened the City Council meeting at 11:26 p.m.

N. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 11:26 p.m.

ATTEST:

Susan J. Blackston  
City Clerk